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09/809,004	03/16/2001	Robert S. Marshall	1305/23	5117

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Post Office Box 2339  
Reston, VA 20195

EXAMINER

SALTARELLI, DOMINIC D

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 04/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/809,004

Applicant(s)

MARSHALL ET AL.

Examiner

Dominic D Saltarelli

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2001.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-14 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 10-15 are objected to because of the following informalities: Due to missing claim 9, claims 10-15 must be renumbered as follows.

Claim 10 must be renumbered to be claim 9.

Claim 11 must be renumbered to be claim 10.

Claim 12 must be renumbered to be claim 11.

Claim 13 must be renumbered to be claim 12.

Claim 14 must be renumbered to be claim 13.

Claim 15 must be renumbered to be claim 14.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-4, 6, 8, 9, and 11-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Murphy (6,564,380).

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Regarding claim 1, Murphy discloses a method for merchandising information to broadcast customers (col. 16 line 64 – col. 17 line 24 and col. 11, lines 19-26) comprising:

Establishing a database (fig. 3, video data storage 350) to store and to organize said information and to maintain it current through input of information as it becomes available (col. 12, lines 24-63);

Selecting that information which is to be provided to each broadcast customer (col. 11, lines 5-38);

Editing said selected information to produce one or more individualized data streams (col. 18, lines 15-25), an assigned data stream for each customer (each request is given a unique access code per customer, col. 10, lines 38-51), each said data stream being ready for on-air broadcast (col. 10, lines 63-66);

Establishing an Internet web site and transmitting said data streams to that web site (the requested streams are accessed through the Master server's web site, col. 11, lines 19-26, and provided through the PoP's web site, col. 7, lines 30-45);

Providing means to allow each broadcast customer to access its assigned data stream through said web site (publishing points are assigned, which are temporary IP addresses which allow a customer to access a purchased stream, col. 11, lines 39-55); and

Transmitting said assigned data stream to the customer (col. 11 line 56 – col. 12 line 12).

Regarding claim 2, Murphy discloses the method of claim 1, wherein said editing is performed at a single location that is remote from the location of the broadcast customers (editing is performed at the PoP/Master site, prior to being made available from the publishing point to customers, col. 18, lines 15-25).

Regarding claim 3, Murphy discloses the method of claim 2, wherein said editing includes integration of the selected information with suitable graphics (col. 18, lines 15-25).

Regarding claim 4, Murphy discloses the method of claim 1, wherein said merchandised information comprises sports data and weather information (col. 18, lines 5-9).

Regarding claim 6, Murphy discloses the method of claim 4, wherein said selected information includes weather data from sites within the customers marketing area (in the case the local weather data is provided in a format for display on a customer's web page, col. 18, lines 5-14).

Regarding claim 8, Murphy discloses the method of claim 1, wherein said editing is performed at a location that is remote from the location of the broadcast customers, and includes a selection by the customer of information to be

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included within its data stream (the graphics are supplied by the customer for inclusion and the editing is performed at the PoP/Master site, col. 18, lines 15-25).

Regarding claim 9, Murphy discloses the method of claim 8, wherein said assigned data stream is transmitted to the customer upon command of that customer (the data streams are stored content that is read out upon order by a customer, col. 12, lines 46-63).

Regarding claim 11, Murphy discloses the method of claim 8, wherein each data stream is different from all other data streams (the data streams are unique point-to-point IP streams, col. 11, lines 39-55).

Regarding claim 12, Murphy discloses the method of claim 8, wherein said information is proprietary to the seller (col. 11, lines 5-11).

Regarding claim 13, Murphy discloses the method of claim 8, wherein the customer broadcaster is allowed web site access only to its assigned data streams (col. 10, lines 38-51 and col. 11, lines 39-55).

Regarding claims 14, Murphy discloses the method of claim 8, wherein said information is edited (prior to distribution, col. 18, lines 15-25) to produce a data stream in real time (for broadcasting, col. 10, lines 63-66).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murphy.

Regarding claim 5, Murphy discloses the system of claim 4, but fails to disclose said selected information includes scores and schedules of contests within the customer's marketing area.

However, Murphy does teach the information provided is very specific, localized, and commercial in nature, including high-interest events that are used to promote a business (col. 18 line 55 – col. 19 line 7) in addition to more traditional information such as sport related information (col. 18, lines 5-9).

Therefore it would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Murphy to include scores (such as sports scores of local teams, as suggested by Murphy in including sports information) and schedules of contests within the customer's marketing area

(which fall under the category of high interest events used to promote a business disclosed by Murphy), for the benefit of increasing the selection of information to be made available to users which would interest them.

Regarding claim 7, Murphy discloses the method of claim 4, but fails to disclose said editing includes integration of weather and sports information to provide a game-time forecast of weather conditions at a specific game site.

However Murphy does teach providing localized information (col. 6 line 64 – col. 7 line 16 and col. 16, lines 64-67), and weather and sports information (col. 18, lines 5-9), in addition to performing advanced editing on a video stream according to the requests of a customer (the PoP combines sets of image data to create composite image data as a finished product video feed, col. 18, lines 15-25).

Therefore it would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Murphy to include in said editing integration of weather and sports information (localized weather and sports information combined into a video stream) to provide a game-time forecast of weather conditions at a specific game site (wherein including the time and location of a sporting event along with the local weather in a single video stream provides this forecast).



6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Murphy in view of Berezowski et al. (6,075,551).

Regarding claim 10, Murphy discloses the method of claim 8, but fails to disclose said editing includes selection by the customer of advertising material that is integrated with said selected information in the assigned data stream.

In an analogous art, Berezowski teaches selecting, by a local broadcaster, advertising material that is integrated in a broadcast data stream (col. 2, lines 40-65 and col. 6 line 5-30), for the benefit of allowing broadcasters to include in their broadcast programming local advertising relevant to the public to which their broadcast reaches.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Murphy to include in the editing selection by the customer of advertising material that is integrated with said selected information in the assigned data stream, as taught by Berezowski, for the benefit of including local advertising in a video stream that is relevant to the public reached by the broadcast of the stream.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gaudian (US 2001/0025255 A1) who teaches providing video streams to various broadcasters over the internet from a central server.

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8. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

### **Certificate of Mailing**

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dominic D Saltarelli whose telephone number is (571) 272-7302. The examiner can normally be reached on M-F 10-7.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on (571) 272-7294.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dominic Saltarelli  
Patent Examiner  
Art Unit 2611

DS

Jason Salce  
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